AMENDED IN SENATE JUNE 21, 2010

AMENDED IN SENATE JUNE 3, 2010

AMENDED IN SENATE JUNE 18, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL No. 684

Introduced by Assembly Member ~~Ma~~ *Buchanan*
~~(Coauthors: Assembly Members Tom Berryhill and Skinner)~~

February 26, 2009

~~An act to amend Section 1371 of the Health and Safety Code, and to amend Section 10123.13 of the Insurance Code, relating to health care coverage.~~ *An act to add Section 26011.9 to the Public Resources Code, relating to technology financing.*

LEGISLATIVE COUNSEL'S DIGEST

AB 684, as amended, ~~Ma~~ *Buchanan*. ~~Claim reimbursement: late payments: dental services.~~ *Technology financing California Alternative Energy and Advanced Transportation Financing Authority Act.*

The California Alternative Energy and Advanced Transportation Financing Authority Act, administered by the California Alternative Energy and Advanced Transportation Financing Authority, among other things, authorizes the authority until January 1, 2021, to approve a project, as defined, for financial assistance in the form of a specified sales and use tax exclusion, in order to promote the creation of California-based manufacturing, California-based jobs, the reduction of greenhouse gases, or reductions in air and water pollution or energy consumption.

This bill would authorize the authority to approve a project, as defined, for financial assistance in the form of bond financing, loans,

loan guarantees, loan risk-factor guarantees, product warranty guarantees, or federal loan contributions consistent with the purposes of the federal award, in order to promote the creation of California-based manufacturing, California-based jobs, and the reduction of greenhouse gas, air, or water pollution. The bill would require the authority to publish notice of the availability of financial assistance and would require the authority to adopt regulations to evaluate projects based on need, job development, environmental benefit, and financial risk.

The bill would authorize the authority, in consultation with the State Board of Equalization and the Franchise Tax Board, to develop a program that allows for repayment of the financial assistance by providing an offset towards a company's repayment obligation based on specified state revenues generated as a result of the financial assistance or by a collective risk pool paid by private parties.

~~Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of that act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Under existing law, health care service plans and health insurers are required to reimburse claims within 30 or 45 working days, as specified, unless the claim or portion thereof is contested.~~

~~Existing law specifies that a claim is contested if the plan or insurer has not received a completed claim and all information necessary to determine payer liability. A plan or insurer is required to notify a claimant of a contested claim within a specified period of time, and to identify the portion of the claim that is contested and the specific reasons for contesting the claim.~~

~~With respect to contracts or policies covering dental services, this bill would require the plan or insurer to acknowledge receipt of a claim within specified periods of time. The bill would require the notice that a claim is being contested or denied to identify the necessary information missing from the claim submission, and to include a clear and accurate explanation of the necessity for that information.~~

~~Because a willful violation of the bill's provisions with respect to health care service plans would be a crime, the bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~yes~~ *no*.

The people of the State of California do enact as follows:

SECTION 1. Section 26011.9 is added to the Public Resources Code, to read:

26011.9. (a) The purpose of this section is to promote the creation of California-based manufacturing, California-based jobs, and the reduction of greenhouse gas, air, or water pollution. In furtherance of this purpose, the authority may approve a project for financial assistance in the form of bond financing, loans, loan guarantees, loan risk-factor guarantees, product warranty guarantees, or federal loan contributions consistent with the purposes of the federal award.

(b) For purposes of this section, "project" means the manufacture or purchase of a technology that would qualify for financial assistance under Section 26011.8 by a California-based company.

(c) The authority shall publish notice of the availability of financial assistance authorized by subdivision (b), including criteria for approval and application deadlines.

(d) The authority shall adopt regulations to evaluate projects based on need, job development, environmental benefit, and financial risk.

(e) The authority may develop a program, in coordination with the State Board of Equalization and the Franchise Tax Board, allowing for repayment of the financial assistance provided pursuant to this section by either or both of the following manners:

(1) Offsetting the repayment obligation of a company receiving financial assistance based on the amount of revenue received by the state by either of the following:

(A) The state tax on the company's income and the company's employees' incomes resulting from the financial assistance.

(B) The sales and use tax on the sale of a product of the company resulting from the financial assistance.

(2) A collective risk pool paid by private parties.

(f) The authority may coordinate with the Capital Access Loan Program established pursuant to Article 8 (commencing with Section 44559) of Chapter 1 of Division 27 of the Health and Safety Code to implement this section.

~~SECTION 1. Section 1371 of the Health and Safety Code is amended to read:~~

~~1371. (a) (1) A health care service plan, including a specialized health care service plan, shall reimburse claims or any portion of any claim, whether in state or out of state, as soon as practicable, but no later than 30 working days after receipt of the claim by the health care service plan, or if the health care service plan is a health maintenance organization, 45 working days after receipt of the claim by the health care service plan, unless the claim or portion thereof is contested by the plan in which case the claimant shall be notified, in writing, that the claim is contested or denied, within 30 working days after receipt of the claim by the health care service plan, or if the health care service plan is a health maintenance organization, 45 working days after receipt of the claim by the health care service plan. The notice that a claim is being contested shall identify the portion of the claim that is contested and the specific reasons for contesting the claim.~~

~~(2) If an uncontested claim is not reimbursed by delivery to the claimant's address of record within the respective 30 or 45 working days after receipt, interest shall accrue at the rate of 15 percent per annum beginning with the first calendar day after the 30- or 45-working-day period. A health care service plan shall automatically include in its payment of the claim all interest that has accrued pursuant to this section without requiring the claimant to submit a request for the interest amount. Any plan failing to comply with this requirement shall pay the claimant a ten dollar ($10) fee.~~

~~(3) For the purposes of this section, a claim, or portion thereof, is reasonably contested if the plan has not received the completed claim and all information necessary to determine payer liability for the claim, or has not been granted reasonable access to information concerning provider services. Information necessary to determine payer liability for the claim includes, but is not limited~~

~~to, reports of investigations concerning fraud and misrepresentation, and necessary consents, releases, and assignments, a claim on appeal, or other information necessary for the plan to determine the medical necessity for the health care services provided.~~

~~(4) If a claim or portion thereof is contested on the basis that the plan has not received all information necessary to determine payer liability for the claim or portion thereof and notice has been provided pursuant to this section, the plan shall have 30 working days or, if the health care service plan is a health maintenance organization, 45 working days after receipt of this additional information to complete reconsideration of the claim. If a plan has received all of the information necessary to determine payer liability for a contested claim and has not reimbursed a claim it has determined to be payable within 30 working days of the receipt of that information, or if the plan is a health maintenance organization, within 45 working days of receipt of that information, interest shall accrue and be payable at a rate of 15 percent per annum beginning with the first calendar day after the 30- or 45-working-day period.~~

~~(5) The obligation of the plan to comply with this section shall not be deemed to be waived when the plan requires its medical groups, independent practice associations, or other contracting entities to pay claims for covered services.~~

~~(b) With respect to a health care service plan contract covering dental services or a specialized health care service plan contract covering dental services pursuant to this chapter, the following shall apply:~~

~~(1) The plan shall acknowledge to the claimant receipt of a claim within two working days of receipt of an electronic claim or within 15 days of receipt of a paper claim.~~

~~(2) If a claim or portion thereof lacks information necessary for the plan to determine payer liability for the claim or portion thereof, both of the following shall apply:~~

~~(A) The notice required under subdivision (a) that the claim or portion thereof is being contested or denied shall identify the necessary information missing from the claim submission and include a clear and accurate explanation of the necessity for that information~~

~~(B) Upon resubmission of the claim with the additional information identified pursuant to subparagraph (A), the plan shall then complete the processing of the claim within the 30-working day period required in subdivision (a).~~

~~SEC. 2. Section 10123.13 of the Insurance Code is amended to read:~~

~~10123.13. (a) Every insurer issuing group or individual policies of health insurance that covers hospital, medical, or surgical expenses, including those telemedicine services covered by the insurer as defined in subdivision (a) of Section 2290.5 of the Business and Professions Code, shall reimburse claims or any portion of any claim, whether in state or out of state, for those expenses as soon as practical, but no later than 30 working days after receipt of the claim by the insurer unless the claim or portion thereof is contested by the insurer, in which case the claimant shall be notified, in writing, that the claim is contested or denied, within 30 working days after receipt of the claim by the insurer. The notice that a claim is being contested or denied shall identify the portion of the claim that is contested or denied and the specific reasons including for each reason the factual and legal basis known at that time by the insurer for contesting or denying the claim. If the reason is based solely on facts or solely on law, the insurer is required to provide only the factual or the legal basis for its reason for contesting or denying the claim. The insurer shall provide a copy of the notice to each insured who received services pursuant to the claim that was contested or denied and to the insured's health care provider that provided the services at issue. The notice shall advise the provider who submitted the claim on behalf of the insured or pursuant to a contract for alternative rates of payment and the insured that either may seek review by the department of a claim that the insurer contested or denied, and the notice shall include the address, Internet Web site address, and telephone number of the unit within the department that performs this review function. The notice to the provider may be included on either the explanation of benefits or remittance advice and shall also contain a statement advising the provider of its right to enter into the dispute resolution process described in Section 10123.137. The notice to the insured may also be included on the explanation of benefits.~~

~~(b) If an uncontested claim is not reimbursed by delivery to the claimant's address of record within 30 working days after receipt, interest shall accrue and shall be payable at the rate of 10 percent per annum beginning with the first calendar day after the 30-working day period.~~

~~(c) For purposes of this section, a claim, or portion thereof, is reasonably contested when the insurer has not received a completed claim and all information necessary to determine payer liability for the claim, or has not been granted reasonable access to information concerning provider services. Information necessary to determine liability for the claims includes, but is not limited to, reports of investigations concerning fraud and misrepresentation, and necessary consents, releases, and assignments, a claim on appeal, or other information necessary for the insurer to determine the medical necessity for the health care services provided to the claimant. If an insurer has received all of the information necessary to determine payer liability for a contested claim and has not reimbursed a claim determined to be payable within 30 working days of receipt of that information, interest shall accrue and be payable at a rate of 10 percent per annum beginning with the first calendar day after the 30-working day period.~~

~~(d) The obligation of the insurer to comply with this section shall not be deemed to be waived when the insurer requires its contracting entities to pay claims for covered services.~~

~~(e) With respect to a health insurance policy covering dental services or a specialized health insurance policy covering dental services, the following shall apply:~~

~~(1) The insurer shall acknowledge to the claimant receipt of a claim within two working days of receipt of an electronic claim or within 15 days of receipt of a paper claim.~~

~~(2) If a claim or portion thereof lacks information necessary for the insurer to determine payer liability for the claim or portion thereof, both of the following shall apply:~~

~~(A) The notice required under subdivision (a) that the claim or portion thereof is being contested or denied shall identify the necessary information missing from the claim submission and include a clear and accurate explanation of the necessity for that information.~~

~~(B) Upon resubmission of the claim with the additional information identified pursuant to subparagraph (A), the insurer~~

~~shall then complete the processing of the claim within the 30-working day period required in subdivision (a).~~

~~SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.~~

All matter omitted in this version of the bill appears in the bill as amended in the Senate, June 3, 2010. (JR11)

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